

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2285

Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Maze, Nation, Vargas, and Yee)

February 22, 2006

An act to amend ~~Section 13300 of Sections 13300 and 13352 of, to add the heading of Article 1 (commencing with Section 13300) to Chapter 13 of Division 5 of, to add the heading of Article 2 (commencing with Section 13350) to Chapter 13 of Division 5 of, and to repeal the heading of Chapter 13.5 of Division 5 of, the Business and Professions Code, and to amend Section 7100 of the Civil Code, relating to automatic check-out point-of-sale systems.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2285, as amended, Committee on Business and Professions. ~~Automatic checkout systems. Point of sale systems.~~

Existing law requires for automated checkout systems that all price reductions, surcharges, and taxes be displayed for the consumer at least once before the consumer is required to pay for the goods or services. *Other provisions of existing law make any violation of these requirements a misdemeanor.*

This bill would delete that *display* requirement, but would require the price, and in the instance of an advertised price reduction or discount, the discounted price or regular price and credit or reduction

of advertised savings, to be displayed. *The bill would recharacterize these provisions to apply to point of sale systems.*

This bill would make other conforming changes.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The heading of Article 1 (commencing with*
2 *Section 13300) is added to Chapter 13 of Division 5 of the*
3 *Business and Professions Code, to read:*

4
5 *Article 1. Point-Of-Sale Displays*

6
7 ~~SECTION 1.~~

8 SEC. 2. Section 13300 of the Business and Professions Code
9 is amended to read:

10 13300. (a) The operator of a business establishment that uses
11 ~~an automatic checkout~~ *a point-of-sale* system to sell goods or
12 services to consumers shall ensure that the price of each good or
13 service to be paid by the consumer is conspicuously displayed to
14 the consumer at the time that the price is interpreted by the
15 system. In any instance in which the business advertises a price
16 reduction or discount regarding an item offered for sale, the
17 checkout system customer indicator shall display either the
18 discounted price for that item, or alternatively, the regular price
19 and a credit or reduction of the advertised savings. Any
20 surcharges and the total value to be charged for the overall
21 transaction also shall be displayed for the consumer at least once
22 before the consumer is required to pay for the goods or services.
23 The checkout system customer indicator shall be so positioned,
24 and the prices and amounts displayed shall be of a size and form,

1 as to be easily viewable from a typical and reasonable customer
2 position at each checkout location.

3 (b) For the purposes of this section, ~~“automatic checkout~~
4 ~~system” means a computer or any electronic system used to~~
5 ~~interpret the universal bar code or any other code that is on an~~
6 ~~item offered for sale to determine the price of the item being~~
7 ~~purchased regardless of whether the code entry is accomplished~~
8 ~~manually by a human or automatically by a machine.~~
9 *“point-of-sale system” means any computer or electronic system*
10 *used by a retail establishment such as, but not limited to,*
11 *Universal Product Code scanners, price look-up codes, or an*
12 *electronic price look-up system as a means for determining the*
13 *price of the item being purchased by a consumer.*

14 (c) All ~~automatic checkout~~ *point-of-sale* systems used by a
15 business establishment on and after January 1, 2007, shall
16 comply with the requirement of subdivision (a).

17 *SEC. 3. The heading of Chapter 13.5 (commencing with*
18 *Section 13350) of Division 5 of the Business and Professions*
19 *Code is repealed.*

20
21 ~~CHAPTER 13.5. POINT-OF-SALE SYSTEM PRICE ACCURACY~~
22 ~~VERIFICATION METHODOLOGIES~~
23

24 *SEC. 4. The heading of Article 2 (commencing with Section*
25 *13350) is added to Chapter 13 of Division 5 of the Business and*
26 *Professions Code, to read:*

27
28 *Article 2. Point-Of-Sale System Accuracy Verification*
29

30 *SEC. 5. Section 13352 of the Business and Professions Code*
31 *is amended to read:*

32 13352. For purposes of this chapter, “point-of-sale” system
33 means ~~any system used by a retail establishment such as, but not~~
34 ~~limited to, Universal Product Code (UPC) scanners,~~
35 ~~price-look-up codes, or an electronic price look-up system as a~~
36 ~~means for determining the price of the item being purchased by a~~
37 ~~consumer computer or electronic system used by a retail~~
38 ~~establishment such as, but not limited to, Universal Product~~
39 ~~Code scanners, price look-up codes, or an electronic price~~

1 *look-up system as a means for determining the price of the item*
2 *being purchased by a consumer.*

3 *SEC. 6. Section 7100 of the Civil Code is amended to read:*

4 7100. (a) Every retail grocery store or grocery department
5 within a general retail merchandise store which uses ~~an automatic~~
6 ~~checkout~~ *a point-of-sale* system shall cause to have a clearly
7 readable price indicated on 85 percent of the total number of
8 packaged consumer commodities offered for sale which are not
9 exempt pursuant to subdivision (b).

10 The management of any such retail grocery store or grocery
11 department shall determine the number of consumer commodities
12 normally offered for sale on a daily basis, shall determine the
13 consumer commodities to be exempted pursuant to this
14 subdivision, and shall maintain a list of those consumer
15 commodities exempt pursuant to this subdivision. The list shall
16 be made available to a designated representative of the
17 appropriate local union, the members of which are responsible
18 for item pricing, in those stores or departments that have
19 collective bargaining agreements, seven days prior to an item or
20 items being exempted pursuant to this subdivision. In addition,
21 the list shall be available and posted in a prominent place in the
22 store seven days prior to an item or items being exempted
23 pursuant to this subdivision.

24 (b) The provisions of this section shall not apply to any of the
25 following:

26 (1) Any consumer commodity which was not generally
27 item-priced on January 1, 1977, as determined by the Department
28 of Food and Agriculture pursuant to subdivision (c) of Section
29 12604.5 of the Business and Professions Code, as in effect July
30 8, 1977.

31 (2) Any unpackaged fresh food produce, or to consumer
32 commodities which are under three cubic inches in size, weigh
33 less than three ounces, and are priced under forty cents (\$0.40).

34 (3) Any consumer commodity offered as a sale item or as a
35 special.

36 (4) Any business which has as its only regular employees the
37 owner thereof, or the parent, spouse, or child of such owner, or,
38 in addition thereto, not more than two other regular employees.

39 (5) Identical items within a multi-item package.

40 (6) Items sold through a vending machine.

1 (c) For the purposes of this section:

2 (1) ~~“Automatic checkout system” means a computer capable~~
3 ~~of interpreting the universal product code or any other code~~
4 ~~which is on an item offered for sale to determine the price of~~
5 ~~items being purchased, regardless of whether the code entry is~~
6 ~~accomplished manually by a human or automatically by a~~
7 ~~machine~~ “Point-of-sale system” means any computer or
8 electronic system used by a retail establishment such as, but not
9 limited to, Universal Product Code scanners, price look-up
10 codes, or an electronic price look-up system as a means for
11 determining the price of the item being purchased by a consumer

12 (2) “Consumer commodity” includes:

13 (A) Food, including all material whether solid, liquid, or
14 mixed, and whether simple or compound, which is used or
15 intended for consumption by human beings or domestic animals
16 normally kept as household pets, and all substances or
17 ingredients added to any such material for any purpose. This
18 definition shall not apply to individual packages of cigarettes or
19 individual cigars.

20 (B) Napkins, facial tissues, toilet tissues, foil wrapping, plastic
21 wrapping, paper toweling, and disposable plates and cups.

22 (C) Detergents, soaps, and other cleaning agents.

23 (D) Pharmaceuticals, including nonprescription drugs,
24 bandages, female hygiene products, and toiletries.

25 (3) “Grocery department” means an area within a general
26 retail merchandise store which is engaged primarily in the retail
27 sale of packaged food, rather than food prepared for immediate
28 consumption on or off the premises.

29 (4) “Grocery store” means a store engaged primarily in the
30 retail sale of packaged food, rather than food prepared for
31 consumption on the premises.

32 (5) “Sale item or special” means any consumer commodity
33 offered in good faith for a period of 14 days or less, on sale at a
34 price below the normal price that item is usually sold for in that
35 store. The Department of Food and Agriculture shall determine
36 the normal length of a sale held for consumer commodities
37 generally item priced on January 1, 1977, in stores regulated
38 pursuant to this chapter, and that period shall be used for the
39 purposes of this subdivision. The department’s determination as
40 to the normal length of a sale shall be binding for the purposes of

1 this section, but each such determination shall not exceed seven
2 days.

3 *SEC. 7. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the*
8 *penalty for a crime or infraction, within the meaning of Section*
9 *17556 of the Government Code, or changes the definition of a*
10 *crime within the meaning of Section 6 of Article XIII B of the*
11 *California Constitution.*